

NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

**Micropower USA Corp. and Professionals at
Micropower New York State United Teachers
and Greg Sandler and Amina Chowdhury.** Cases
02–CA–130858, 02–CA–132236, 02–CA–132592,
and 02–CA–132830

January 11, 2016

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS MISCIMARRA
AND HIROZAWA

The General Counsel seeks default judgment in this case on the ground that the Respondent has failed to file an answer to the amended compliance specification.

On March 31, 2015, the National Labor Relations Board issued a Decision and Order,¹ that, among other things, ordered Respondent Micropower USA Corp., to make whole discriminatees Alex Albaret, Valmike Apuzen, Florentino Capili, Amina Chowdhury, Imelda Lapid, Ntumba Mukendi, Felicity Nduku, Gwendolyn Nisbett, Greg Sandler, and Nevdoyle Santana, for any loss of earnings and other benefits resulting from the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the Act.

A controversy having arisen over the amount of backpay due the discriminatees, on September 15, 2015, the Acting Regional Director issued an amended compliance specification and notice of hearing to the Respondent, alleging the amount due under the Board's Order and notifying the Respondent that it should file an answer by October 6, 2015, complying with the Board's Rules and Regulations. Although properly served with a copy of the amended compliance specification,² the Respondent failed to file an answer.

By letter dated October 15, 2015, the Region advised the Respondent that no answer to the amended compliance specification had been received, and that unless an answer was filed by October 19, 2015, the Board may find, pursuant to a motion for default judgment, that the allegations in the amended compliance specification are true. To date, the Respondent has not filed an answer.

On October 19, 2015, the General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. On October 20, 2015, the Board issued an order transferring the proceeding to the Board and a Notice

to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the amended compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the motion for default judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the amended compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the amended compliance specification to be admitted as true, and we grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the backpay due the discriminatees is as stated in the amended compliance specification, and we will order the Respondent to pay those amounts, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Micropower USA Corp., New York, New York, its officers, agents, successors, and assigns, shall make whole discriminatees Alex Albaret, Valmike Apuzen, Florentino Capili, Amina Chowdhury, Imelda Lapid, Ntumba Mukendi, Felicity Nduku, Gwendolyn Nisbett, Greg Sandler, and Nevdoyle Santana, by paying them the amounts following their names, plus interest accrued to the date of payment, as prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), and minus tax withholdings required by Federal and State laws:³

¹ 362 NLRB No. 63.

² On August 31, 2015, the Regional Director issued and served a compliance specification on the Respondent. The Respondent failed to file an answer to the compliance specification.

³ As set forth in the amended compliance specification, the Respondent is also liable for any adverse tax consequences for any discriminatee receiving a lump-sum backpay award. Although the amended compliance specification calculated the adverse tax consequences, that amount may be updated to reflect the actual date of payment.

Alex Albaret	\$ 867.00
Valmike Apuzen	8,880.00
Florentino Capili	10,405.00
Amina Chowdhury	6,900.00
Imelda Lapid	11,994.00
Ntumba Mukendi	9,181.00
Felicity Nduku	9,180.00
Gwendolyn Nisbett	272.00
Greg Sandler	5,440.00
Nevdoyle Santana	<u>5,678.00</u>
Total Backpay Due	\$68,797.00

Dated, Washington, D.C. January 11, 2016

Mark Gaston Pearce, Chairman

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD